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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SONOS, INC.,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Case No. 3:21-cv-07559-WHA
Related to Case No. 3:20-cv-06754-WHA

**DECLARATION OF COLE B.
RICHTER IN SUPPORT OF
GOOGLE'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED (DKT. 222)**

I, Cole B. Richter, declare as follows and would so testify under oath if called upon to do so:

1. I am an attorney with the law firm of Lee Sullivan Shea & Smith LLP, counsel of record to Sonos, Inc. (“Sonos”) in the above-captioned matter. I am a member in good standing of the Bar of the State of Illinois. I have been admitted *pro hac vice* in this matter. I make this declaration based on my personal knowledge, unless otherwise noted. If called, I can and will testify competently to the matters set forth herein.

2. I make this declaration in support of Google’s Administrative Motion to Consider Whether Another Party’s Material Should be Sealed filed on July 22, 2022 (Dkt. 222) (“Administrative Motion”), in connection with Google’s Answer to Sonos, Inc.’s Third Amended Complaint (“Google’s Answer”).

3. Sonos seeks an order sealing the materials as listed below:

Document	Portions Google Sought to Be Filed Under Seal	Portions Sonos Seeks to Be Filed Under Seal	Designating Party
Google’s Answer	Portions highlighted in green	Same portions highlighted in green by Google	Sonos
Exhibit 2 to Google’s Answer	Entire document	Entire document	Sonos
Exhibit 3 Google’s Answer	Entire document	Entire document	Sonos

4. I understand that the Ninth Circuit has recognized two different standards that may apply to a request to seal a document, the “compelling reasons” standard and the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in connection with a motion that is “more than tangentially related to the merits of a case.” *Id.* Accordingly, I understand courts in this district apply a “compelling reasons” standard to a sealing request made in connection with a motion for summary judgment. *See, e.g., Snapkeys, Ltd. v. Google LLC*, No. 19-CV-02658-LHK, 2021 WL 1951250, at *2 (N.D. Cal. May 14, 2021).

5. I further understand that confidential technical information about product features, architecture, and development satisfies the “compelling reason” standard. *See Delphix Corp. v. Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding compelling reasons to seal where court filings contained “highly sensitive information regarding [an entity’s confidential] product architecture and development”); *Guzik Tech. Enters., Inc. v. W. Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013) (sealing exhibit containing “significant references to and discussion regarding the technical features” of a litigant’s products). Under this “compelling reasons” standard, the Court should order the above-listed documents sealed.

6. Google’s Answer and Exhibit 3 reference and contain Sonos’s confidential business information and trade secrets, including details regarding the source code, architecture, and technical operation of various products. The specifics of how these functionalities operate is confidential information that Sonos does not share publicly. Thus, public disclosure of such information may lead to competitive harm as Sonos’s competitors could use these details regarding the architecture and functionality of these products to gain a competitive advantage in the marketplace with respect to their competing products. A less restrictive alternative than sealing said documents would not be sufficient because the information sought to be sealed is Sonos’s confidential business information and trade secrets and Google contends that this information is necessary to Google’s Answer. *See Declaration of Jocelyn Ma in Support of Google LLC’s Administrative Motion to Seal*, ¶¶ 4, 6 (Dkt. 221-1).

7. Google’s Answer and Exhibit 2 reference Sonos’s confidential business information and include confidential business agreements and licensing negotiations that are not public. Public disclosure of this information would harm Sonos’s competitive standing and its ability to negotiate future business agreements because it would give competitors access to Sonos’s confidential business strategies. If such information were made publicly available, I understand that Sonos’s competitive standing would be significantly harmed. A less restrictive alternative than sealing said documents would not be sufficient because the information sought to be sealed

1 is Sonos's confidential business information and trade secrets and Google contends that this
2 information is necessary to Google's Answer. *See* Declaration of Jocelyn Ma in Support of
3 Google LLC's Administrative Motion to Seal, ¶¶ 4, 5 (Dkt. 221-1).

4 8. Sonos's request is narrowly tailored to protect its confidential information.

5 I declare under penalty of perjury that the foregoing is true and correct to the best of my
6 knowledge. Executed this 29th day of July, 2022 in Chicago, Illinois.

7
8 /s/ Cole B. Richter

COLE B. RICHTER